IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 2377 OF 2007

Salim Mussa Sayyad and Anr. ... Applicants.

V/s.

State of Maharashtra. ... Respondent.

WITH

CRIMINAL APPLICATION NO. 2378 OF 2007

Mr.Anwar Mussa Sayyad & Anr. ... Applicants.

V/s.

State of Maharashtra. ... Respondent.

K.S.Patil for the applicants.

Ms.M.H.Mhatre, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 27th August 2007.

P.C.:

. The facts and issues involved in both applications are common. The Sessions Court has also decided the bail applications by common order. Both these applications are, therefore, decided by this common order.

2. Heard learned counsel for the applicants and learned A.P.P. for the State.

3. The factual matrix drawn in the order dated 21st June, 2007 of the Sessions Court is not in dispute. The Sessions Court while rejecting the bail applications has considered the role played by each of the applicants and the injuries inflicted by them which can be seen from para-8 of the of the order, which is reproduced hereinbelow:

> "8. After going through the case papers and hearing learned cousnel for the applicants and learned Addl.Public Prosecutor for the prosecution, it appears that on 23.2.2007 at 9.00 p.m. The complainant along with Mussa Sayyad had been to house of Imam in Masjid, and thereafter they came back after having talk with Imam. It is alleged that when they came back at that time all accused persons came with deadly weapons and started beating to the complainant Iqbal who was taken up to the house of his brother Suleman. By seeing crowd of the people deceased-Navid, son of complainant, came there and asked as to why accused persons were beating to his father. At that time accused persons started assaulting him. If one goes minutely with complaint it appears that it is accused-Afzal who head taken chopper from pocket of his pant for assaulting to the deceased-Navid and handed over it to accused-Anwar who has assaulted deceased by means of chopper. Deceased failed down on the ground. At that time the complainant has tried to save deceased by covering his body by his body. The other accused persons beaten the complainant by means of sticks. However, at that time accused Salim and Afsar has assaulted deceased by means of sword stick, while accused Ramzan and other accused persons were having stick and iron rod with them and they have beaten the deceased and the complainant by means of iron rod and sticks. On perusal of postmortem notes it appears that there are three stab injuries on vital part of the body of deceased due to which he died. These injuries were of sword stick- a sharppointed weapon. A sword stick was in hands of accused-Salim and Afsar. They must have assaulted the deceased by means of sword stick. At the same time there are allegations

made in the complaint itself immediately lodged by the complainant that the accused Anwar and Shoukat were having chopper and assaulted deceased by means of it. These circumstances constrained me to say that accused Anwar, Shoukat, Salim and Afzal are not entitled for bail. The offence is serious in nature punishable uynder sec.302 of I.P.Code. These accused persons were having deadly weapons like sword stick and chopper with them by which they have assaulted the deceased.

4. Considering the aforesaid material available on record to connect the applicants- accused with the offence alleged, with which I concur, I do not think it is a case for grant of bail.

5. Both applications are rejected.

JUDGE